

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

_____	X
	:
TRANSILWRAP COMPANY, INC. and	: Honorable
BRUSHFOIL INC.,	:
Plaintiffs,	: Civil Action No.
	:
	:
vs.	: FILED UNDER SEAL
	:
	:
METAL FX FILMS, LLC, JAMES PARKER,	:
and CHARLES YETKA,	:
	:
Defendants.	:
	:
	:
_____	X

Expert Declaration Detailing the Analytical Comparison of Brushfoil Brushed Metalized Polyester and Metal FX Brushed Metalized Polyester Films

July 2, 2014
J. Scott Scarbrough
Technogرافix, Inc.
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Executive Summary

1. Samples of “brushed” metalized polyester produced by Brushfoil were compared with samples of a “brushed” metalized polyester produced by Metal FX. [REDACTED]

[REDACTED]

Introduction

2. My name is J. Scott Scarbrough. I am the president and owner of Technogرافix, Inc., in which I serve, among other things, as a technical advisor and legal consultant in the plastic converting industry. I am also the co-founder of Forward Optics, a company that supplies optical micro-lens array substrates.

3. I have been retained by the Plaintiffs in this case, Transilwrap Company, Inc. and Brushfoil Inc., to investigate a product being offered by Metal FX Films, LLC, FX0005-92 Brushed Silver (“FX”), and to compare this with Brushfoil Inc.’s 92 ga. Brushed Silver Pattern, FH 40 (“FH”). My analysis and conclusions are set forth in this declaration.

4. [REDACTED]

5. I reserve the right to supplement the analysis contained in this declaration: (a) to rebut any new opinions offered by the defendants or their experts; (b) if new information becomes available to me; (c) if any new issues should arise; or (d) as otherwise permitted by the Court. I further reserve the right to review any declaration or report that may be provided by any other expert, and to supplement my analysis based on my review of any such declaration or report.

6. I am being compensated for my work in this case at the rate of \$200 per hour. My compensation is not dependent on the content of this declaration or the outcome of this case. I am also being reimbursed for out-of-pocket expenses incurred in connection with this engagement.

Qualifications

7. Exhibit A to this declaration is my curriculum vitae, which, among other things, lists the patents that I have been awarded, the consulting work I have done, and the cases in which I have served as an expert.

8. In 1982, I received a Bachelor of Science in polymer science from Penn State University. In 2000, I received a Masters of Business Administration from Lake Forest Graduate School of Management. In 2008, I received a Juris Doctorate from Marquette University.

9. I have experience and familiarity with the issues involved in this case. For example, I have worked with polymers and in the polymer industry for more than 30 years. This includes working with polyester films and various methods and processes that are used to brush these and other films in order to create a brushed metallic look [REDACTED]

Background on Brushfoil

10. Transilwrap's Brushfoil division produces a unique metalized polyester material, highly valued in the graphics marketplace for its particular brilliance, visual brushed effects, and cleanliness. Brushfoil uses a specific manufacturing process and a unique polyester polymer to produce this unique metalized polyester material.

11. [REDACTED]

12. [REDACTED]

13. I understand that the specific unique polyester used in Brushfoil's process was selected after years of testing [REDACTED]

[REDACTED]

Analysis

14. [REDACTED]

[REDACTED]

15. [REDACTED]

16. [REDACTED]

17. [REDACTED]

18. [REDACTED]

¹ [REDACTED]

19.

[REDACTED]

20.

[REDACTED]

21.

[REDACTED]

[REDACTED]

22.

[REDACTED]

23.

[REDACTED]

24.

[REDACTED]

[REDACTED]

25.

[REDACTED]

26.

[REDACTED]

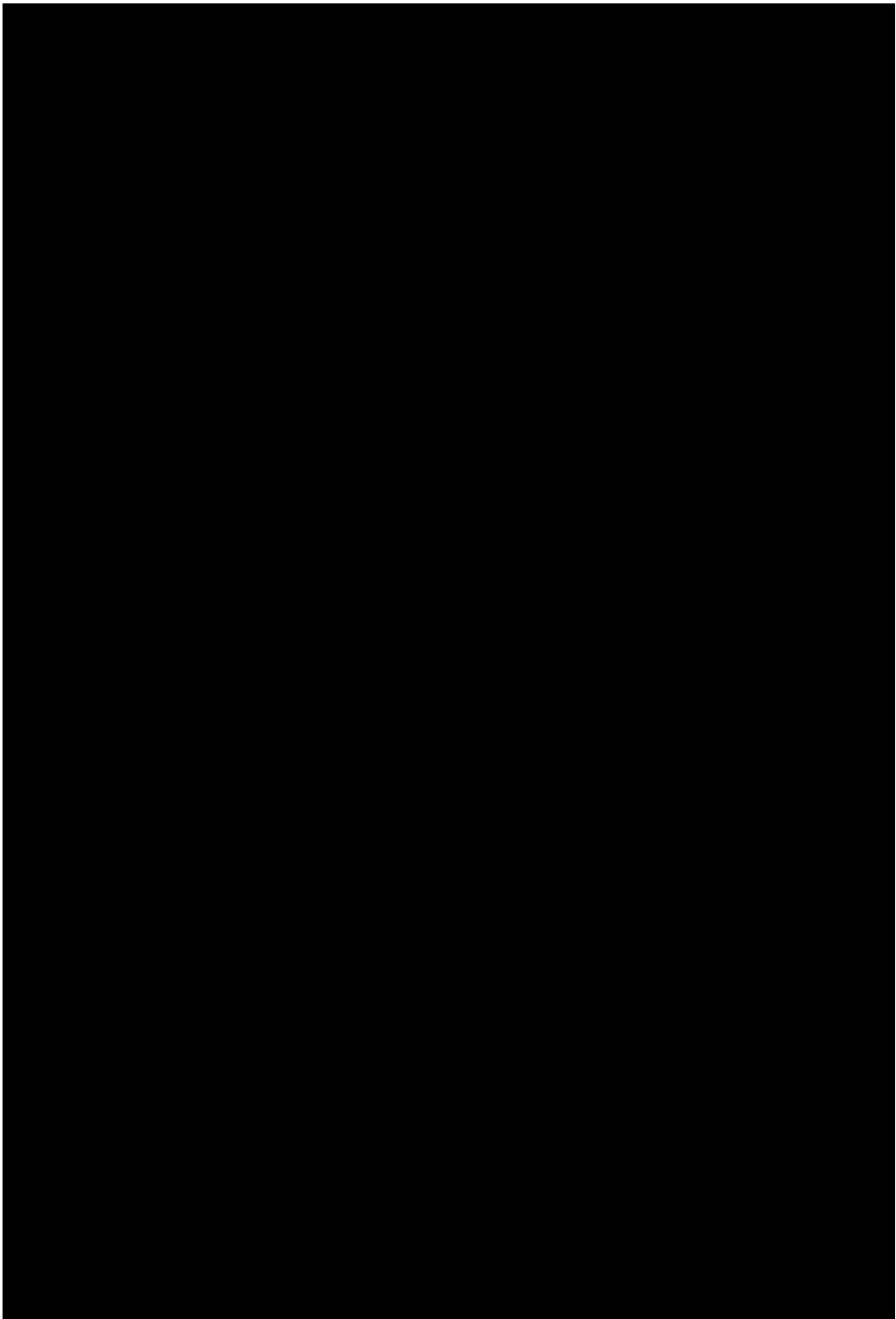
27.

[REDACTED]

[REDACTED]

28. [REDACTED]

29. [REDACTED]



30.

31. My analysis showed that there is no discernible macro- or micro-differentiation visible between the FH and FX samples.

32.

[REDACTED]

34. [REDACTED]

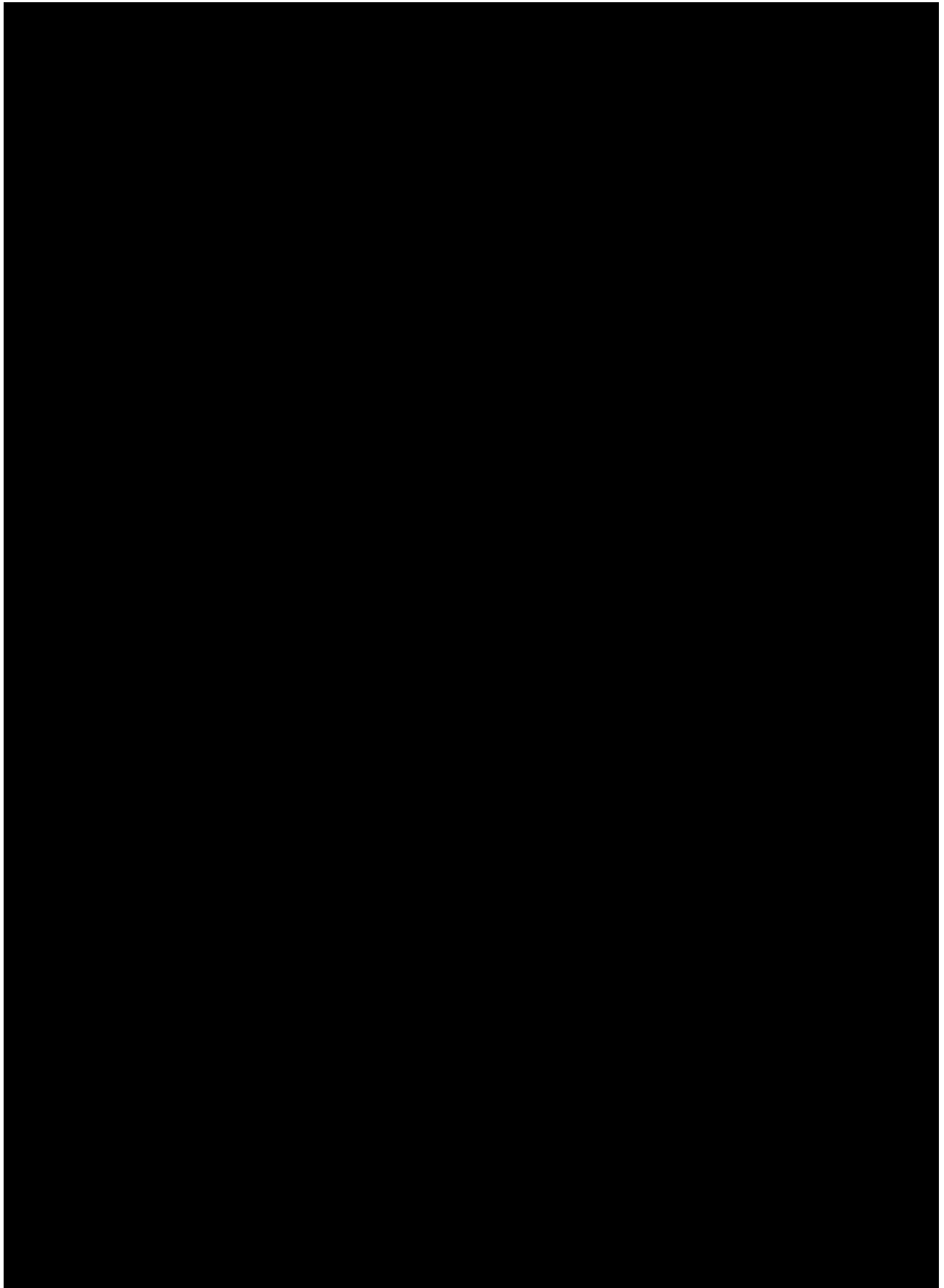
35. [REDACTED]

36. [REDACTED]

[REDACTED]

37. [REDACTED]

38. [REDACTED]



39.

[REDACTED]

40.

[REDACTED]

41.

[REDACTED]

42.

[REDACTED]

43.

[REDACTED]

²

[REDACTED]

[REDACTED]

[REDACTED]

Conclusions

44. In my professional opinion Metal FX has replicated the identical process as Brushfoil.

[REDACTED]

45. [REDACTED]

46. [REDACTED]

47. [REDACTED]

48.



I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED on July 2, 2014



J. Scott Scarbrough
President, Technogرافix, Inc.

EXHIBIT A

J. Scott Scarbrough
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Lindenhurst, IL 60046
Mobile Phone: 262-388-0360
E-mail: jsscarbrough@comcast.net

WORK EXPERIENCE

Co-Founder Forward Optics: (2012 – Present)

- Supplier of Optical Micro-Lens Array Substrates.
- Industry Leader in Optical Substrate Design and Manufacture.
- Partner to Security and Brand Authentication Printing Market.
- Support and License IP in the Micro-Optic Lens Array Industry.

Founder and President Technografix, Inc. (2004– Present)

- Manage and grow portfolio of specialty coating, printing, and converting technologies via licensing.
- Negotiate and draft international contracts.
- Technical Advisor and Legal Consultant in Plastic Converting Industry:
 - o Defined, analyzed, and resolved lamination defects in holographic laminating process.
 - o Developed proprietary process for production of security ribbon for banknotes.
 - o Training Consultant for multiple international companies involved in the production and design process of micro-lens formation on plastic substrates for 3D effects in secure financial instruments.
 - o Training Consultant for multiple international companies involved in the production and design process of micro-light controlling printed lines of UV clear resin creating the illusion of motion.
 - o Developed process for micro-embossing and decurling DuPont Polyester for Credit Card industry.

Manager of Technology and Licensing: Serigraph, Inc. (2001 - 2004)

- Responsible for R&D at this multi-process, global leader of printing technologies to the Automotive, Medical, Health Care, Trading and Financial Card markets.
- Managed new product development initiatives that represented 30% of annual sales (those initiatives contributed significantly higher margins as they consisted of proprietary technologies).
- Author/inventor of 13 USA and PCT patents issued or pending.

Director of Technology: Serigraph, Inc. (1997 - 2001)

- Managed R&D, Prototype, and Quality Departments.
- Created a self-funding Prototype Department with over 60% of prototypes turning into orders.
- Initiated a Licensing Program to evaluate and license proprietary coating and printing technologies to non-competitive companies.

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Vice President of Technology: American Decal & Mfg. Co. (1995 – 1997)

- Developed highly engineered specialty constructions in the retro-reflective, medical and security printing industries, including the development of print receptive coatings and covert/overt security features.
- Managed R&D, Quality, Compounding, and Coating departments.
- Converted multiple product lines from solvent based coatings to water based or UV based coatings in order to become EPA compliant.
- Implemented and managed compliance with EPA VOC emission requirements per Congress's passing of Title 5.
- Resolved previous Title 5 non-compliance violations in cooperation with the Director of the EPA, successfully avoiding monetary penalties.

Manager Research and Development: Packaging Products, Inc. (1992 – 1995)

- Manager of R&D and Quality department for this specialty coater of protective masking films for the medical, automotive, and industrial markets.
- Developed multilayered engineered polymer films and adhesive systems for the automotive, medical, and industrial markets.
- Doubled sales with new products in 3 years.

Project Leader: Fitchburg Coated Products, Inc. (Bemis, Co.) (1986 – 1992)

- Responsible for development of pressure sensitive constructions for the printing industry; consisting of functional specialty coatings for specific release characteristics, engineered adhesives, print receptive coatings, carriers, and facestock materials resulting in fully functional adhesive products for the roll label, sheet fed label, and medical drug transfer delivery system markets.
- My product lines doubled the company's sales to \$90 million in 3 years.

Chemist: Avery International, Inc. (1982 – 1986)

- Responsible for development of Water-Based Pressure Sensitive Adhesives for the label, tape and medical tape market .
- One product continues to sell multiple tanker loads every week, 26 years later.

EDUCATION

Juris Doctorate: (2003 – 2008)

Marquette University | Milwaukee, WI

Concentrated on International Intellectual Property, Patent, Trademark, Copyright, Contracts, Alternative Dispute Resolution, Negotiation, Mediation and Arbitration.

Masters of Business Administration: (1997 – 2000)

Lake Forest Graduate School of Management | Lake Forest, IL

LFGSM offers a unique Executive MBA program, taught exclusively by current Executives and Senior Management of Fortune 500 Companies.

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Bachelor of Science, Polymer Science:

(1978 - 1982)

The Pennsylvania State University | State College, PA

The 5 Year B.S. in Polymer Science degree at Penn State requires a full Chemistry degree in addition to 30 credit hours of Polymer and Material Science.

PATENTS:

PCT/US200933179 and US 7609451 B1 “Printed article for displaying images having improved definition and depth.”

EP 1284870 B1 “Reflective printed article and method of manufacturing same.”

US 6979487 B2 “Glossy printed article and method of manufacturing same.”

US 6856462 B1 “Lenticular imaging system and method of manufacturing same.”

US 7048307 B1 “Reflective display.”

US 6833960 B1 “Lenticular imaging system.”

US 7497475 B1 “Multi-textured reflective display.”

US 7290803 B2 “Reflective article and method of manufacturing same.”

US 7290802 B1 “Second surface micromotion display.”

EXPERT WITNESS:

National Graphics Inc v Brax Ltd, Dynamic Drinkware LLC, Service Litho-Print Inc. et al. (Case No. 12-CV-01119-WCG in the United States District Court, Eastern District of Wisconsin). Contracted by defense counsel to provide expert witness testimony concerning the validity of patents in question and to analyze both prior art and plaintiff’s reduction to practice samples of extruded plastic material with microscopic features.

MEMBERSHIP:

Wisconsin Bar Association. Currently a member in good standing and admitted by the Wisconsin Board of Bar Examiners in 2009.
